Responsiveness Summary to September/October 2019 Stakeholder Comment Period on Draft Solid Waste Management Rules

All received comments have been organized, by section within their respective subchapters. Original comments are in black text, while the Secretary's responses are provided after the comment in blue text.

§6-201: *"Asbestos Waste" means a waste that contains any type of asbestos in an amount greater than one percent by weight, either alone or mixed with other fibrous or non-fibrous material.*

The reference to "fibrous and non-fibrous material" is confusing. Non-friable asbestos is not regulated by the EPA or OSHA unless the material has deteriorated, or been cut/sanded, thus creating the potential for airborne emissions. We suggest revising the definition of Asbestos Waste to be consistent with the Federal definitions in the Asbestos NESHAP regulations, codified at 40 C.F.R., Part 61, Subpart M. Given that Vermont requires both friable and non-friable asbestos waste to be managed (i.e. remove, packaged, handled and disposed), in a similar manner, consider including a definition for each to provide clarification in the regulations.

Response. The Program agrees that the management of friable and non-friable asbestos is functionally the same and therefore will be retaining the definition that includes fibrous or non-fibrous material together rather than separating into two definitions as this provides clarity that they will both be subject to the same management requirements.

§6-201: "Cell" means discrete, confined portion of compacted solid waste within a landfill that is enclosed by a liner and cover material. A cell is a subpart of an operational unit within a landfill**.**

For clarity, we suggest revising the definition as follows;

"Cell" is defined as a subpart of an operational unit within a landfill.

Response. In consideration of this comment, the Program has removed the reference to liner and cover material to prevent confusion between the operational period and the closure period. The definition now reads: "Cell" means discrete, confined portion of compacted solid waste within a landfill. A cell is a subpart of an operational unit within a landfill**.**

§6-201: "Construction and Demolition Waste" or "C&D" means waste derived from the construction or demolition of buildings, roadways or structures, including, but not limited to, clean wood, treated or painted wood, plaster ~~sheetrock~~ drywall, roofing paper and shingles, insulation, glass, ~~stone, soil~~, flooring materials, brick, masonry, mortar, incidental stone, soil, metal, furniture and mattresses. This definition includes architectural waste. This ~~waste~~ definition *does not* include asbestos waste, regulated hazardous waste, hazardous waste generated by households, **or** hazardous waste from conditionally exempt generators~~, or any material banned from landfill disposal under 10 V.S.A. §6621a~~.

Addition of the word Or to last sentence

Response. The Program agrees with the comment and the word "or" has been added.

§6-201: "Food residual" means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable in a manner consistent with 10 V.S.A. § 6605k. Food residual includes pre-consumer and postconsumer food scraps. "Food residual" does not include meat and meat-related products when these materials are composted by a resident on site.

Food Residual: This has now been broken out into Food Residual and Food Processing Residual. One excludes meat and meat-related products and the other residuals from slaughtering and rendering operations. It seems that Food Processing Residuals are a subset of Food Residuals and multiple definitions complicate things more than helps.

Response. There are different management options for Food Processing Residuals versus Food Residuals, so that both definitions are necessary to provide clarity on management options.

Additional note: The comment implies that these are newly proposed. As a point of clarity, definitions for "food residuals" and "food processing residuals" have been in the Solid Waste Rules since the 2012 version. These 2019 draft Rules updated the definition of food residuals to match 10 V.S.A. § 6602(31) verbatim, for consistency.

§6-201: *Food Residual means source separated and uncontaminated material that is derived from processing or discarding of food that is recyclable in a manner consistent with 10 V.S.A. 6605(k). Food residual includes pre-consumer and post-consumer food scraps. "Food residual" does not include meat and meat-related products when these materials are composted by a resident on site.*

Does this definition include pre-packaged food or formula that is either expired, off-spec or recalled? Is this type of material still acceptable for disposal at the landfill after July 1, 2020?

Response. The definition does include pre-packaged food or formula that is expired, off-spec or recalled. If these items are expected to be produced and need management routinely, then that material could be processed via depackaging. If not routinely produced, it may qualify as de minimis and be disposed, if in accordance with statute.

§6-201: "Nuisance" means anything that is injurious to human health or is indecent or offensive to the senses and occurs as the results of the storage, transport, processing or disposal of solid wastes. Constitutes the interference with the comfortable enjoyment of life or property and affects any considerable number of persons at the same time.

Develop parameters to determine nuisance so operators are not facing constant harassment. Act 250 utilizes a practical method that makes a determination based on two components of "Undue" and "Adverse" - without articulating parameters, the determination of a nuisance becomes entirely subjective, which is a disservice to the complainant, the operator and the regulator. Additionally, in the context of a facility located on a farm, jurisdiction shall be limited to nuisance derived solely from the management of "Solid Waste" and the overlay of Solid Waste management with farming practices must be considered.
To avoid redundancy in complaint records, internal improvements in the usage of the field "related complaint number" should be considered.

Response. The Program agrees that "nuisance" is difficult to validate, but "undue" and "adverse" are equally difficult to field verify and the proposed change does not offer significant improvement. In fact, the proposed language may potentially represent a weakening in the standard because "undue" and "adverse" presume a baseline level of acceptable off-site impact before a nuisance is considered "undue" or "adverse."

The Program agrees that in responding to a solid waste complaint, peripheral activities which are unrelated to the solid waste management activity would not be included.

The Department of Environmental Conservation utilizes an environmental complaint tracking system. Each formal complaint is entered into the system as its own event and has a unique tracking number. All correspondence and documentation for each complaint is filed under the associated tracking number. We do not understand what the commenter means by redundancy in complaint records.

§6-201: "Nuisance" means anything that is injurious to human health or is indecent or offensive to the senses and occurs as the results of the storage, transport, processing or disposal of solid wastes. Constitutes the

interference with the comfortable enjoyment of life or property and affects any considerable number of persons at the same time.

This definition is subjective and could be interpreted several ways. We suggest the following definition;

"Nuisance" means anything that is injurious to human health or is continuously indecent or offensive to the senses and occurs as the results of the storage, transport, processing or disposal of solid wastes. Constitutes the constant interference with the comfortable enjoyment of life or property and continually affects any considerable number of persons at the same time.

Response. The Program will keep the original definition as the addition of "constant" and "continually" would open up another level of interpretation to nuisance.

§6-201: "Organics" means any carbon-based plant or animal material or byproduct thereof which will decompose into soil. Examples of organic materials include food residuals, leaf and yard residuals, grass clippings, and paper products. Domestic waste (human and pet feces) is not included in this definition of organics.

Proposed change – "Organics" means any carbon-based plant or animal material or byproduct thereof which will decompose into soil, *and is therefore free of non-organic materials or uncontaminated.*

Response. Agreed. Definition has been updated.

§6-201: "Organics" means any carbon-based plant or animal material or byproduct thereof which will decompose into soil and is therefore free of non-organic materials and contamination. Examples of organic materials include food residuals, leaf and yard residuals, grass clippings, and paper products. Domestic waste (human and pet feces) is not included in this definition of organics.

§6-201: "Organic Drop-Off" means a registered facility that is not located on a certified solid waste facility and is approved for the collection of food residuals.

Consider removing 'registered' from the definition and providing a tiered/ situational approach in Subchapter 9 so that businesses who would like to offer food scrap drop off for their employees as a perk can do so without any additional burden, similar to any other food scrap generator.

Response. The registration of organic drop-offs represents a tiered approach. It provides a registrant with a reduced and streamlined permitting process compared to the longstanding transfer station permitting requirements, while ensuring that organic drop-offs are managed in an appropriate manner. A business could provide drop-off service for their employees following registration with the Program.

Add additional definitions for Source Separated Organics and URL's Organics Management Hierarchy provided in the URL.

Response. Since suggested definitions were not provided, it is unclear what gaps the commenter was hoping to address with new definitions. The waste management statutes have definitions for "Source Separation", and outline the organics management hierarchy. They stand on their own and do not necessarily need to be repeated in Solid Waste Management Rules. It would be helpful for the Program to understand the intent if actual proposed language were provided.

§6-302(a)(4): Recycling facilities which accept, aggregate, store and/or process less than ~~50~~ fifty (50) tons of recyclable materials per year.

Add to allowance for minimal volumes, operations that will process and reuse recyclable materials, such as glass, on-site or within their operation.

Response. The 50 ton exemption is from statute and can not be changed. Once a recyclable material has been processed for reuse it is no longer regulated by the Solid Waste Program.

§6-302(a)(15): Processed Glass Aggregate (PGA) that:

(A) Contains no hazardous waste and no more than 5% contamination by weight from china dishes, ceramics, or plate glass; or 1% contamination by weight from plastics, papers or other objectionable materials. PGA must be crushed and screened such that 95% of the material passes a 25.0 mm screen and not more than 3% of the material that passes through the 4.75 mm sieve passes the 75 µm sieve.; and

Change to **mm** for the last 75 sieve size

Response. This is correct as µm. This controls the percentage of very fine material and prevents the PGA from being a dust hazard.

§6-302 A. 15. B. vi. [Processed Glass Aggregate (PGA) when used for the following applications:]

We believe if PGA can be used as common backfill outside a solid waste disposal facility, it could and should be used as landfill cover or construction material inside the landfill footprint to offset the need for trucking natural material to the facility.

Response. PGA is allowed to be used as backfill around collection pipes within the landfill footprint, under the utility backfill material provision. However, PGA is not an appropriate material for road base or daily cover and the Program does not agree with this change.

§6-302(a): The following are exempt from ~~the provisions of~~ regulation under these rules:

Add leaves to list of exemptions, high carbon bulking materials.

Include food scraps and other organic materials utilized for agricultural purposes, including the consumption by livestock in the list of exemptions.

Response. Leaves are already included for use under the high carbon bulking agent exemption – see 6-302(a)(16)(g).

Solid wastes registered under the AAFM Commercial Feed Law and fed to livestock are proposed as an exemption; see 6-1103(a)(13).

Solid wastes that are composted are proposed to be exempted below 42 cubic yards annually of food residuals – up to 100 cubic yards per year of total combined feedstocks regardless of location and end use. In order to apply baseline public health and environmental protections in a reasonable manner, the Program has adopted a tiered approach to compost permitting which increases regulation in proportion to throughput as the potential for environmental and health impacts grows. A blanket exemption for solid waste composting based solely upon the operation being located on a farm – regardless of throughput volume - is less protective of public health and the environment than the tiered regulatory approach currently in place.

§6-304: The following activities are prohibited under these rules:

Include the prohibition of feeding potentially with animal byproducts contaminated food scraps to swine. Reference to related AAFM swine feeding rule.

Response. 6 V.S.A. § 1672 prohibits feeding swine prohibited food wastes. Prohibited food waste is defined in 6 V.S.A. § 1671(a) as pre- and post-consumer waste material derived in whole or in part from the meat of any animal, including fish and poultry, or from other animal material; or material that, as a result of the handling, preparation, cooking, disposal or consumption of food has come into contact with pre or postconsumer waste material derived in whole or in part from the meat of any animal, including fish or poultry, or from other animal material.

The Agency of Agriculture, Food and Markets has an established swine feeding policy and is in charge of the administration and enforcement of this law. Suspected violations of the swine feeding law can be reported to the AAFM by calling (802)828-2421.

Since the prohibition is already established in current agriculture statute, and is under the purview of another agency, the Program does not find it necessary to repeat the prohibition in the Solid Waste Management Rules.

Include prohibition of sending materials to out-of-state facilities that would not be compliant with Vermont standards.

Response. The Solid Waste Program does not have the authority to require out-of-state receiving facilities to comply with Vermont Solid Waste Management Regulations to receive Vermont trash, recyclables or special wastes. If an out-of-state receiving facility is in compliance with host state regulations it is acceptable for Vermont generated wastes to be transported and managed there. It should be noted, that the requirements of 10 V.S.A. § 6621a for landfill banned materials apply to all Vermont generated waste regardless of destination. No changes proposed.

Subchapter 4 – Waste Management Plans

§6-402(a): A municipality shall be a member of a district or alliance, or shall be an independent town, collectively these municipalities are referred to as Solid Waste Management Entities (SWME). Each SWME shall have a Solid Waste Implementation Plan (SWIP) that has been approved by the Secretary. A municipality that does not comply with this section shall not be eligible for State funds to plan and construct solid waste facilities and shall not use facilities certified by the State of Vermont.

1) What about groups? Like Londonderry Group?

Response. See the definition of a "Solid Waste Management Entity in § 6-401 which includes solid waste group.

2) Not eligible for grant funding for outreach projects or to offset hw costs

Response. Both statute and the Materials Management Plan address possible enforcement consequences of not adopting or implementing a SWIP. The Program does not believe duplication of this is necessary in Rule.

§6-402(b): A SWME shall submit for the Secretary's review and approval a solid waste implementation plan that conforms to the performance standards in the materials management plan (MMP) adopted by the Secretary pursuant to 10 V.S.A. § 6604 and to any applicable regional plan adopted pursuant to title 24, chapter 117 of the Vermont Statutes Annotated. The proposed SWIP submittal shall:

Include requirements for how Solid Waste Districts shall implement and enforce the Organic Materials Hierarchy.

Response. SWMEs are not responsible for enforcing state landfill ban requirements. The requirement for a SWME to address how the performance standards of the MMP include addressing the intent of the Organic Materials Hierarchy and the selection of which option of the hierarchy is implemented is not enforceable.

§6-504 E. 8. A facility management plan (FMP), which includes demonstration that the siting, design and operational information for the facility is sufficient to demonstrate compliance with the standards and requirements of these Rules. The FMP must address all operational units and wastes to be managed at the facility along with providing the basis for the operating capacity and growth capacity planned for the facility. At a minimum the FMP must address:

As the FMP outlines operational requirements rather that siting and design, we suggest;

A facility management plan (FMP), which includes ~~demonstration that the siting, design and~~ operational information for the facility is enough to demonstrate compliance with ~~the standards and requirements of~~ these Rules. The FMP shall address all operational units and wastes to be managed at the facility along with providing the basis for the operating capacity and permitted design capacity planned for the facility. At a minimum, the FMP shall address the components of an FMP identified in §6-704(b).

Response. The FMP is required to include a map of the facility operations. This is meeting the demonstration of attaining the siting requirements of these rules. Siting and design are integral to the operation of a facility and as such the description of a FMP will remain as is.

§ 6-504 Minor Application Submissions

Suggest that DEC add an introductory paragraph before section A, that would explain the difference between minor and full certification, and who would qualify.

Response: The following chart will be added to applicability of subchapter 5.

Notice Type	Upon Application Submittal	Administratively Complete Application	Draft Decision (DD)	Comment / Meeting Request Period	Public Meeting	Post-Meeting Comment Period	Final Decision
Type 1 *Federal General Permits & Individual Clean Air/Water Act*	For individual permits: Applicant notices adjoining property owners by US mail	Notice sent to all federally required parties. Notice of complete app required ≥15 days prior to draft decision (*doesn't apply to general permits*)	Notice posted to ENB & all related documents that were considered for the decision. Factsheet posted with Draft Decision. *DD cannot be posted w/in 15 days of Admin. Complete notice. Newspaper noticing required for permits under Clean Water Act*	≥ 30 days. Meeting request can be made any time during the comment period	Must be announced for ≥30 days prior to meeting date	Lasts ≥ 7 days after public meeting	Notice posted to ENB with final decision, response to comments, and factsheet.
Type 2 *Individual Permits*	Applicant notices adjoining property owners // terrestrially adjoining for lakes & shorelands	Notice posted to ENB	Notice and documents posted to ENB	≥ 30-day comment period / Meeting request must be made within 14 days of draft decision	Must be announced for ≥14 days prior to meeting date	Lasts ≥ 7 days after public meeting	Notice posted to ENB with final decision and response to comments.
Type 3 *State general permits*	No notice required to adjoining property owners	Notice posted to ENB	Notice and documents posted to ENB	≥ 30 days upon DD posting. Meeting request must be made within 14 days of draft decision	Must be announced for ≥14 days prior to meeting date	Lasts ≥ 7 days after public meeting	Notice posted to ENB with final decision and response to comments.
Type 4 *Includes most NOIs; Minor amendments for issued permits*	No notice required to adjoining property owners	Notice posted to ENB	Notice and documents posted to ENB	≥ 14 days upon DD posting. Public cannot request meeting	N/A	N/A	Notice posted to ENB with final decision and response to comments.
Type 5 *Emergency Permits*	N/A	N/A	N/A	N/A	N/A	N/A	Notice posted to ENB with final decision.

NOTES:

- The initial day the comment or notice period begins is the day following the date which the notice was posted. Example: ENB posting of Draft Decision on June 13, 2017, the 30-day comment period for Type 1, 2, or 3 would begin on June 14, 2017.
- Each notice or comment time period in the chart is inclusive of weekend days.
- All Comments submitted on a draft decision will be done through the ENB.
- There are three kinds of amendments under Act 150. Those are administrative, minor, and major. The kind of amendment will dictate the type of notice needed.
  - Major = same process as original permit
  - Minor = Type 4, minus notice of application submitted
  - Administrative = not notice procedures required
  - Renewal = follows same notice Type as the original permit
- Unless indicated in the chart above, all notices are sent by email.

§6-601(c)(2): Upon a determination made pursuant to subdivision (c)(1) above, the Secretary shall provide notice of the draft decision. At a minimum, the Secretary shall post the draft decision and how to request copies of the complete record associated with the application.

Where? On the ENB Bulletin Board?

Response. Yes, this will be completed through the Environmental Notice Bulletin; however, the rules do not name the ENB in the advent that the format changes in the future.

§6-606(d)(3): The effective date of suspension or revocation of the certification, plan, or registration; and

If this happens, shouldn't the Permittee be required to submit something detailing how the facility will be closed down until resolution of the suspension or revocation?

Response. The notice of suspension or revocation does require the permittee to enact the closure plan from the approved facility management plan.

Subchapter 9 – Storage, Transfer, Recycling and Treatment Facilities

§6-902: Storage, Transfer, Recycling and Processing Facilities Types

Create an exemption for businesses who allow employees to drop off food scraps as a perk. Ensure setting up to support this limited activity is as easy as a food scrap generator setting up for any other type of commercial collection, which requires no permit or registration.

Response. Convenient access to solid waste management facilities is important for Vermont's residents. There is an entire network of transfer stations, compost facilities, mobile solid waste collection facilities and curbside haulers across the state to manage solid wastes (including food residuals). Via the 2019 draft Rules, the Program is proposing to further increase convenient access by allowing a food residual drop-off location, in a designated area of need, to register as a facility. Given the robust existing solid waste management infrastructure in Vermont already, it does not seem necessary to exempt businesses from the food residual collection, storage and transfer requirements at this time. A business could provide drop-off service for their employees following registration with the Program.

§6-902(d): Architectural Waste Recycling Facilities: Facilities that qualify as Construction and Demolition Processing Facilities that also recycle all six architectural wastes. These facilities shall apply for a new certification or an amendment to an existing certification prior to operation.

6-902: I believe that requiring AW facilities to recycle all six components is ambitious and perhaps counterproductive. If one has a C&D processing facility that separates clean wood and scrap metal, for example, wouldn't it make sense to require projects in those areas to at least capture those materials?

Response. If a facility does not recycle all six architectural wastes, it is not an Architectural Waste Recycling Facility. The facility would be a Construction and Demolition Processing Facility and could recycle material C&D waste streams as the operator saw fit. Using the provided example, a Construction and Demolition Processing Facility could choose to recycle clean wood and scrap metal, but that facility would not be in compliance with 10 V.S.A. § 6605m, the Architectural Waste recycling law, nor would the generator of AW, unless the generator recycled other four architectural wastes elsewhere.

§6-905(h): Tires; additional standards. No more than ~~3~~ 1,000 tires may be stored uncovered and on the ground at the facility site at any time.~~,~~ Tires shall be removed from the facility on at least an annual basis, unless the facility processes tires on-site, in which case, the maximum amount and the storage design shall be dictated by the FMP ~~facility management plan~~.

6-905(h) Storage, Transfer, Recycling and Processing Facilities Operating Standards: Can you provide feedback why the allowable number of tires stored onsite is dropping from 3,000 to 1,000? This seems to be an arbitrary change that will result in unnecessary administrative costs to solid waste facilities by having to go through the permit amendment process. Additionally, we wait until we have a full load of tires before we ship to make it more economical. Based on some rough math a full shipment is >1,250 tires. Based on those estimates and the proposed changes we would be out of compliance each time we shipped a load.

Response. The intent was to lower the number of tires in order to prevent tire piles becoming difficult to manage; however, the Program agrees that allowing a full trailer load to be collected is reasonable and the maximum number of tires has been increased to 1,500 tires.

Subchapter 10 – Additional Disposal Facility Operating Standards

§6-1002 A. 8. [Categorical Disposal Facilities: The disposal of one or more of the following categories of solid wastes, which does not qualify for a limited duration Insignificant Waste Management Event (IWMEA) under 6-505(b) is a categorical disposal facility.

8. Development soils

Casella proposes that development soils be removed from this section. We believe that any contaminated soil should be disposed of in a lined landfill, as disposal otherwise may be harmful to public health and the environment.

Response: The passage of ACT 52 in 2015, has provided the direction for Development Soils be eligible for disposal at categorical disposal facilities. These rules are consistent with that legislative requirement. No changes have been made.

§6-1004 K.6. ~~Discrete disposal facility~~ Landfill designs shall include a sequential capping plan for closing operational units of the disposal facility during its life. Such operational units shall be designed for a life not to exceed ~~five~~ ten (10) years unless otherwise approved by the Secretary.

We believe that the 10-year limit should be removed from this section, and that this section should also take temporary closure into account. Please see our revision below.

~~*Discrete disposal facility*~~ ***Landfill designs shall provide a sequential capping plan for temporary or final closure.***

Response. The Program cannot issue permits for longer than 10year periods, the 10 year limit helps keep the sequencing within a permit and review period. The Secretary does have the opportunity to approve other durations, as demonstrated to be necessary within an application.

§6-1004 G. 12. Facility design ~~facilities~~ shall assure the control and treatment, ~~if~~ as determined necessary by the Secretary, of gases resulting from the decomposition of wastes to prevent hazards to public health and safety, the environment, or the creation of a nuisance.

If a facility must assure these controls, then the "creation of nuisance" being very subjective and as the Secretary suggests, could be "too open to interpretation", the following language is more appropriate, and this section should be revised as follows;

Facility design ~~facilities~~ shall assure the control and treatment, ~~if~~ as determined necessary by the Secretary, of gases resulting from the decomposition of wastes to prevent hazards to public health and safety and the environment.

Response. The Program disagrees, creation of a nuisance is an unacceptable facility operation and facility designs must provide sufficient consideration and controls to prevent the creation of a nuisance.

§6-1004 K. 5. Landfill design and fill plans must be such that final grades are achieved as soon as possible and that the open area for active filling be minimized. Designs shall include extent and duration of planned intermediate cover and interim cap that will be utilized prior to final capping of the landfill units.

These plans should be named "fill plans" rather than "landfill design and fill plans" as they are only pertaining to

the fill procedures of the landfill. Please see our suggested revisions to this section.
Landfill fill plans must be developed such that final grades are achieved as soon as practical and that the open area for active filling be minimized. Fill Plans shall include appropriate extent and duration of anticipated intermediate cover and interim cap that may be utilized prior to final capping of the landfill units.

Response. The landfill design plans impact the operation and fill plans. The description will remain as is.

§6-1005(a): All Categorical disposal facilities. Categorical disposal certifications shall ~~contain, at a minimum, the~~ operate in accordance with the following operating and reporting conditions:

(1) Solid waste shall be covered and the disposal area shall be graded to promote runoff when closing the facility. A minimum cover shall consist of at least one-foot thickness ~~of a silty fine sand or other~~ earthen or other material capable of sustaining native vegetation. The Secretary reserves the authority to require additional ~~more frequent~~ cover requirements

Is there a definition somewhere of what constitutes native?

Response. The Program agrees that without a definition the word native is unnecessary and it has been removed.

§6-1005(a)(4): Reporting.

(A) The facility operator shall make reports to the Secretary on forms developed by the Secretary. ~~The facility operator~~ These reports shall be filed ~~file a repor~~t with the Secretary on a quarterly basis or as specified in the facility certification; ~~and~~

electronically

Response. Agreed and changed.

§6-1005 A. 6. Development soil categorical disposal facilities shall, on a quarterly basis or as specified in the facility certification, also provide copies of the originating site work that is required by this Rule prior to disposal at the site.

To be consistent with our comments for §6-1002 A. 8. And §6-1005 A. 1, we believe that this section should be removed.

Response. The passage of ACT 52 in 2015, has provided the direction for Development Soils be eligible for disposal at categorical disposal facilities. These rules are consistent with that legislative requirement. No changes have been made.

§6-1005 B. 1. Developmental soils categorical disposal facilities. Development soils categorical disposal facilities shall operate in accordance with the following additional operating and reporting conditions:

(A) Facilities shall, on a quarterly basis or as specified in the facility certification, provide copies of the originating site work as required by §6-1006(a)(3)(A) prior to disposal at the site.
(B) Waste shall be covered and graded to promote runoff at least once a year in accordance with the standards of this subsection.

To ensure consistency with our comment on §6-1002 A. 8., that development soil disposal should not qualify to be a categorical disposal facility, we would also like to propose that this section be removed as well.

Response. See response above.

§6-1005 C. 17. The groundwater compliance point shall be no more than 150 meters from the waste management unit boundary and be located on property owned by the landfill owners.

As with our comment on §6-1004 G. 9, we believe that these requirements should remain in English units. Please see our revision below.

The groundwater compliance point shall be no more than 450 feet from the waste management unit boundary and be located on property owned by the landfill owners.

Response. The use of meters is consistent with the federal requirements and will remain as is.

§6-1005 F. Response to Detection of Liner Leakage.

We believe that the reference to "detection of liner leakage" is not appropriate in this case. A landfill could exceed the 20 gallons-acre-day from a hole in a detection system cleanout allowing clean stormwater to run in.

Please consider "response to flows over 20 gallons per-acre-day within the detection system".

Response. Agreed and language has been added in Rule to clarify that actions need to be taken when the action leakage rate has been exceeded and that this is not necessarily indicative of a liner leakage.

§6-1006 A. 3. The following shall be required for development soil categorical disposal facilities:

To be consistent with our previous comments on development soils, we would propose that DEC remove this section.

Response. See responses above on development soils.

§6-1006 B. 8. Waste Control plan – which shall include a description of how waste will be received and monitored, identification and management of wastes requiring special handling (friable asbestos, sludges etc.), and the program for detecting and preventing disposal of unauthorized wastes (random inspections etc.).

We do not believe that a new requirement is necessary, as the FMP currently has a waste control plan already in place.

Facility Management Plan– including, but not limited to, a description of how waste will be received and monitored, identification and management of wastes requiring special handling (friable asbestos, sludges etc.), and the program for detecting and preventing disposal of unauthorized wastes (random inspections etc.).

Response. Waste Control Plans are specific to landfills, while the FMP requirements are more generalized. The waste control plan can be submitted within the FMP, but the submittal must address all required components outlined by the Rule requirements for the waste control plan.

§6-1008(l): At the point of this rule's promulgation, all owner/operators who have previously received a post-closure certification will have the existing certification replaced by the provisions of this subchapter and post-closure care

management will be regulated under these rules and the post-closure plan, post-closure cost estimates and financial assurance instruments that are approved at the point of certification expiration

6-1008(l) Disposal Facility Post-Closure: We have some real concerns about the open-endedness to the new post-closure requirements. Given that we are very close to the end of our 30-year original post-closure requirements, and the fact that we are no longer making any revenue on the landfill, is the state preparing any source of financial assistance mechanism to aid facility owners who need to increase their holdings to ensure proper post-closure care past the original 30-years? For example, our current post-closure fund has ~$630,000 in it. For indefinite care, assuming conservative costs at ~$70,000/year that number would have to increase to ~$2.8M, almost 4x it's current level (estimating at 2.5% interest per year). I know there is a mechanism by which we can end post-closure care but that's assuming that the metrics by which that determination is made are attainable. On a separate but related note, our other concern supposes we are able to cease post-closure care and move into custodial care. Are we as the owners of the now-closed facility financially responsible for issues that arise at the facility? For example, if there are back to back 100-year storms and there is a slope washout, are we responsible for the cost of re-covering and sloping the landfill? Or if there is an earthquake that causes fractures in the liners resulting in groundwater contamination, are we going to be responsible for that cleanup or is the state preparing to have a financial mechanism by which they can take responsibility?

Response. The responsibility to management and maintenance of a landfill facility does remain with the owner and operator indefinitely. While regulatory requirements may diminish with time, as the facility attains certain performance criteria, the long-term management of the facility is the owner's responsibility.

§6-1101(b): The siting requirements of ~~§6-1107~~ § 6-1106 and the liquid management standards of ~~§6-1108~~ § 6-1107 shall not apply to facilities permitted prior to March 15, 2012 ~~[effective date of this rule]~~, except if an expansion in the compost management area or an increase in processing capacity is proposed. ~~A lateral expansion, or a significant improvement or an increase in processing capacity to at a facility permitted subsequent to March 15, 2012 [the effective date of this rule] shall require the facility to meet the siting requirements for the expansion and the liquid management standards for the facility. The Secretary may require a facility to meet the liquid management standards of §6-1106 as necessary to protect the environment.~~

If there is an exemption for sites permitted before 2012, there should also be an exemption to facilities that have already developed a site with the expectation they would be operating under VAAFM jurisdiction.

Response: The above-cited grandfathering applies to previously permitted solid waste compost operations, which means they were subject to previous liquids management requirements taken into account when the facilities were constructed. The same cannot be said for all pre-existing farm composting operations. The Program does not know what liquids management practices are being applied at the above-referenced locations but the liquids management standards in the Rules are flexible to accommodate a variety of acceptable methodologies. We agree that retroactively applying siting and setback requirements on a compost operation is not prudent, and therefore we are proposing to grandfather pre-existing composting operations from siting requirements provide there exists no evidence of environmental impact due to insufficient siting location and setback distances.

§6-1102(n): "Farm" means a place used for agricultural or horticultural use and/or cultivation or management of land for orchard crops or food, fiber, Christmas trees, maple sap and maple syrup products, animal husbandry, fish or bees or a greenhouse operation, on-site storage of agriculture products principally produced on the farm or the on-site production of fuel or power from agriculture products or waste principally produced on the farm.

Include in the definition of a farm the composting of agricultural byproducts and source separated organics, and the foraging of hens on compost.

Response: If the goal is to establish those activities as farming, the AAFM statutes and rules would be better suited for that definition to be revised. Adding those items to the definition of Farm in the Solid Waste Management Rules would not change the applicability of the Solid Waste Rules to any farm importing solid waste for composting, therefore a revision is necessary at this time.

§6-1102(o): "Food processing residual" means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding slaughtering and rendering operations. It does not include materials from markets, groceries, or restaurants. Typically and historically regulated by the Indirect Discharge Program.

These are/were typically and historically……

Response: Thank you for the grammatical correction. This sentence has been removed from the 2019 draft rules as it was a fragment that was not cleaned up from a prior draft of the rules.

§6-1103(a): The following activities are exempt from the requirements of this subchapter:

may be helpful to also add the tonnage the cubic yards equates to

Response: We are not aware of any composters operating at throughputs at or around the exemption

threshold that have scales to weigh incoming feedstocks. The composting rules are intentionally based around cubic yard units based on feedback from composters stating that cubic yards are easier to obtain than weights. Material streams can vary greatly in bulk density from generator to generator making it difficult to estimate tonnages in Rule. No changes are proposed.

§6-1103(a)(1): A person(s) composting 42 cubic yards or less annually of food residuals and other regulated organic solid wastes (excluding animal offal and slaughterhouse waste) ~~100 cubic yards or less annually of combined feedstocks~~ is not subject to regulation under these rules.

Does the 42 cubic yards include yard and leaf debris, or other carbon sources (as "other regulated organic solid wastes")? My understanding through conversations is that this is intended to reflect to food residuals component. If this is correct, this could be re-written to make this point more clearly.

Response: Thank you for the comment. The Program agrees that more explanation for this exemption is necessary and has proposed the following:

§6-1103(a)(1): A person(s) composting 100 cubic yards or less per year of total organics of which not more than 42 cubic yards per year are food residuals and/or food processing residuals ~~100 cubic yards or less annually of combined feedstocks~~ is not subject to regulation under these rules. This exemption does not apply to collection and composting of animal offal, slaughterhouse wastes, or animal mortalities generated off-site.

§6-1103(a)(4): Facilities that compost solely any of the following materials, provided the compost is used for soil enrichment:

(A) any amount of animal manure;

(B) any amount of absorbent bedding; and

(C) any amount of clean high carbon bulking agent.

1) **Where do facilities that exclusively handle manures but are not on a farm fall within the regulations? Why are these exempt when there is no other agency with jurisdictional oversight?**

Response: This exemption applies to any entity composting the above listed materials – on farm or off farm. In preparing the 2012 rules, when this exemption was established, the Program and stakeholders evaluated the likely public health and environmental impacts of this and all of the other exempted activities. It was determined at that time that the potential for impacts from this activity did not warrant DEC permitting, and as of the issuance date of this responsiveness summary the Program has no evidence to justify reversing that approach.

2) **Include waste feed and other byproducts of farming in manure exemption.**

Response. The Program will consider this suggestion but does not have enough information about this practice to add these materials to the manure exemption during this rule making effort.

§6-1103(a)(5): Facilities located on a farm that compost vegetative farm waste from a farm.

Strike "from a farm" and add "or food residuals."
PFCF and Rural Vermont understand food residuals as nutrients coming from a farm that shall return to farms for "diversion for agricultural use, including the consumption by animals" as determined by 10 V.S.A. § 6605k(a)(3). We currently advocate to gain jurisdictional clarity, devoted to AAFM, for on-farm food residuals management. Consequently the exemption in §6-1103(a)(5) should be extended to food residuals.

Response: The Program fully supports the diversion of food residuals for agricultural use, including consumption by animals. The Solid Waste Management Program is responsible for establishing procedures and standards to protect public health and the environment by ensuring the safe, proper, and sustainable management of solid waste. It was established through a stakeholder process that ANR should have oversight of food residual composting, even when located on a farm. Given the potential impacts from mismanaged food residual composting, the Program feels that the current tiered approach – exemption, registration, categorical certification, full certification – provides better protection than a blanket exemption for farms that compost food residuals.

§6-1103(a)(7): Facilities located on a farm that compost animal mortalities ~~and~~ or slaughter house waste from the farm's livestock.

Strike "from the farm's livestock" and add "from a farm's livestock."
Farms in Vermont have a long history of helping one another out, sharing different strengths. It would be beneficial for the State to ensure the cooperation between farms extends into the management of mortalities.

Response: During the last compost rule revision, there AAFM was concerned with the transmittance of animal mortalities and animal wastes one farm to another and the potential for an outbreak to spread. This concern remains and therefore no change to this exemption is proposed.

§6-1103(a)(13): Organic Solid Wastes that meet the Vermont Agency of Agriculture, Food & Markets' Commercial Feed Law when those materials are used as animal feed on a farm.

Given previous discrepancies, we appreciate this approach to expressly exclude the PFCF compost foraging practice from ANR regulation. However, this wording is not beneficial for our purposes and not in alignment with the guidance given in 10. V.S.A. §6605k(a)(3).
We are not entirely sure whether the practice of using food-residuals as a chicken forage falls within the category of commercial "feed" regulation. Even if this interpretation would apply to the agricultural use of food residuals, the food residuals management hierarchy avoids the word "feed" and instead uses "consumption by animals" as an indicator for the foraging practice. Commercially manufactured and distributed animal feed, is regulated under the FFDCA whereafter it is impossible to use adulterated materials, which food residuals typically are. In opposition thereto, the URL requires the creation of a recycling system for food residuals, whereby (again) the diversion for agricultural use, including consumption by animals, has to be possible. Furthermore, in a letter from VAAFM to PFCF on October 19th, 2018, VAAFM clarified they do not require poultry farmers to utilize commercial feed and VAAFM does not currently have restrictions or guidelines for allowing chickens access to food residuals. Also, to be clear, PFCF practitioners are neither manufacturing nor distributing commercial feed for sale. ANR does not have the authority or jurisdiction to determine what may or may not be used for the feeding, raising and management of poultry.
We suggest the following wording: "(13) Food Residuals that are diverted for agricultural use, including the consumption by animals." This exemption would be in accordance with ANR's historical interpretation of the law and would prevent the Agency from overstepping its jurisdiction in attempting to determine what farms may or may not use for the raising, feeding and management of their animals. AAFM and the USDA have regulations in place pertaining to swine that prohibit the use

of food residuals, a practice that would not be included in the interpretation of such an exemption.

Response: The Program disagrees with the notion that this exemption in any way exerts authority over what may or may not be fed to livestock. All determinations of what may or may not be fed to livestock fall under the authority of the Agency of Agriculture, Food and Markets. This exemption is solely intended to clarify that any solid waste that successfully receives an AAFM commercial feed designation and is used to feed livestock on a farm is exempt from the Solid Waste Management Rules.

The Program respects a farm's decision to choose to allow poultry access to piles in a registered/certified solid waste compost operation provided the operator can do so while maintaining compliance with all stipulated operational performance measures outlined in the Rules. No change is proposed at this time.

§6-1104(a)(4):A facility that is exempt from Act 250 pursuant to 10 V.S.A. § 6001 (3)(D)(vii)(VI) is not eligible to be registered as a small compost facility under this section and shall apply for a permit as a medium compost facility under ~~§6-1105~~ § 6-1109(a)

1) **Why, if a facility is exempt from Act 250, does it pop the project to a medium compost facility under this section?**

2) **This will deter farms from engaging in composting and supporting the goals of the state in Act 148 as no farm will be eligible to register as a "Small" composting facility. We suggest the following language: "A facility that is exempt from Act 250, unless located on a farm, pursuant to 10 V.S.A."**

Response: This provision was initially included in the 2012 SWMR based upon an agreement amongst stakeholders to balance simplified permitting with the obligation to public notice adjoining landowners. To summarize the requirements at the time, if a farm was exempt from Act 250 and subsequently registered as a small solid waste composter, there was no opportunity for the public to comment on the operation. However, as the commenter correctly states, the jump from a composting registration to a medium certification comes with many additional implications (additional construction and operational requirements) above and beyond public notice.

We've had seven years to assess the 2012 composting rules as they apply to compost facility registration and in the meantime, Vermont promulgated procedural rules under Act 150 that pertain to public notice. As a result, registrations now have to be public noticed upon the final decision. Considering the new notification requirements in the Accepted Compost Practices and 10 V.S.A. Chapter 170, the Program agrees and is proposing to strike §6-1104(a)(4) from the draft rules altogether.

~~**§6-1104(a)(4):**A facility that is exempt from Act 250 pursuant to 10 V.S.A. § 6001 (3)(D)(vii)(VI) is not eligible to be registered as a small compost facility under this section and shall apply for a permit as a medium compost facility under §6-1105 § 6-1109(a)~~

§6-1105(c): Small Composting Facility Design.

(1) Liquids Management. Composting ~~activities~~ facilities shall be ~~managed~~ designed in a manner that prevents discharges off site and to surface waters. At a minimum, the facility shall ~~conform~~ meet ~~to~~ the following design ~~to meet that~~ standards:

1) **There are opportunities for some flexible/natural management of liquids that will not be available for any farms to implement. Farms will be held to a higher design standard due to the Act 250 component in § 6-1104(4).**

Response: In considering a prior comment, the Program has assessed §6-1104(a)(4) and determined that it applies overly onerous public health or environmental protections that exceed the level of potential risk. As a result the Program is proposing to strike requirement of 6-1104(a)(4) meaning that farms that are exempt from 10 V.S.A. § 6001 (3)(D)(vii)(VI) could apply for a small registration under the Accepted Composting Practices.

2) Include 'wood chips' in list of materials suitable for filter berms in (v).

Response: The above referenced liquids management standard has been revised to include woodchips as an acceptable filtration media.

(v) Any berms, swales or ditches used to convey water from the compost management area to the vegetative treatment area shall use finished compost, bark, woodchips, stone, and fabric in the construction as is necessary to filter suspended solids and excess nutrients from leachate.

§6-1105(d)(2)(C): All recipes shall be designed to ensure that the initial compost mix results in:

(i) A carbon to nitrogen (C:N) ratio of 20:1 to 40:1

(ii) A bulk density of less than 1,200 ~~pounds~~ per cubic yard

(iii) A pH in the range of six to eight S.U.

Why strike "pounds"? This is the correct unit.

Response: Thank you for catching this error. The strikethrough on pounds has been removed (see revision below).

§6-1105(d)(2)(C): All recipes shall be designed to ensure that the initial compost mix results in:

(i) A carbon to nitrogen (C:N) ratio of 20:1 to 40:1

(ii) A bulk density of less than 1,200 pounds per cubic yard

(iii) A pH in the range of six to eight S.U.

§6-1105(d)(2)(K): Screening of finished compost. The finished compost shall be screened to remove any remaining contaminants. All contaminant materials shall be disposed of at a certified solid waste facility.

Add: if utilizing a clean stream of feedstocks and compost is primarily being utilized for land application on operator's farm, screening may not be required.
For some farms that are making compost for application to their own lands, this requirement may not be feasible and may not provide the best compost for their agricultural needs. If feed stocks are well sourced and managed, screening may result in the removal of beneficial materials.

Response: The concern is the feedstocks that are not well sourced. It's not acceptable for any amount of non-compostable materials to be spread on the land. The Secretary appreciates the comment and is open to evaluating this approach. This suggestion will be considered, though it may not be incorporated into this current round of rule revisions.

§6-1105(d)(3)(A)(i): If composting food residuals, the temperature of the compost windrows shall be monitored ~~on a daily basis~~ at least every other day during the treatment process. The temperature should be monitored at one foot and three-foot depths every ~~five liner~~ 15 linear feet of windrow ~~at the base of the windrow~~ while achieving the treatment standards established in § 6-1105(d)(2)(G) ~~subsection (j)(4) of this section~~.

This is highly prescriptive and does not make sense. For a windrow that is 30 feet in length, two temperature recordings would not be adequate, for a windrow that is 200 feet long, every 15ft might make sense.
Also, taking temperatures every other day does not make sense. If the windrow has enough mass, it may take several days or more, especially when factoring in the season, for that windrow to reach temp. A more flexible and practical method for farmers is approved under the USDA.
Add: Facilities on farms making compost solely used as a soil amendment are exempt from this requirement if maintaining approval by Vermont Organic Farmers' Association.

Response: The proposed revisions to this section are in response to feedback we've received routinely since the 2012 rules were promulgated; 1) taking temperature readings every 5 linear feet is burdensome, and 2) taking daily temperature readings is also burdensome. The Program agrees that monitoring every 5 feet is excessive but stretching readings too far apart will result in incomplete records of pile temperatures. To add flexibility on behalf of the operator, but still assure compliance with necessary time & temperature requirements, the Program is proposing the below revisions.

The Program cannot justify the exemption requested. It is appropriate that all composting facilities (farm or non-farm, public or private) need to meet the same minimum PFRP requirements if they compost food residuals.

(A) Temperature records for active compost piles sufficient to demonstrate compliance with the treatment requirements:

(i) If composting food residuals, the temperature of the compost windrows shall be monitored ~~on a daily basis~~ during the treatment process in accordance with an approved facility management plan. The temperature should be monitored at one foot and three-foot depths at least every ~~five liner~~ 15 linear feet of windrow ~~at the base of the windrow~~ while achieving the treatment standards established in § 6-1105(d)(2)(G) ~~subsection (j)(4) of this section~~.

§6-1107(a)(3): Storage and management of untreated material. All raw feedstocks and composting piles ~~material~~ that ha~~ves~~ not met the treatment standard defined in ~~§6-1110(d)~~ § 6-1108(b)(4), excluding leaf and yard residuals and high carbon bulking agents, shall be stored and managed in an area that meets the following design standards:

(A) Has ~~located on~~ an average slope of between two and five percent~~. The slope shall be~~ and is maintained so that ponding in the compost management area will not occur; and~~. The area for this material shall be located on the following~~:

(B) Is on an impervious pad; or

(C) Has been granted approval by the Secretary for use of improved native soils ~~as approved by the Secretary~~; or

(D) Is a compacted gravel pad meeting a hydraulic conductivity of $1x10^{-7}$ $^{-5}$ cm/sec or alternative standard as approved by the Secretary.

1) **If a farm has previously been operating under the jurisdiction of VAAFM, they should not be held to these requirements without evidence of clear threat to the environment.**

2) **This set of rules would fundamentally alter how Cloud Path Farm operates. We suggest to exempt on-farm food residuals management from siting requirements that go beyond the RAPs..**

Response: In considering a prior comment, the Program has assessed §6-1104(a)(4) and is proposing to strike requirement of 6-1104(a)(4) meaning that farms that are exempt from 10 V.S.A. § 6001 (3)(D)(vii)(VI) could apply for a small registration under the Accepted Composting Practices. This section applies to Medium & Large facilities.

§6-1107(a)(4): Leachate storage.

Given that all poultry farms previously authorized to utilize food residuals will be required to register as a Medium or Large Facility, this rule may prove financially and operationally prohibitive.

As indicated earlier, these farmers should be exempt from the siting requirements altogether, but if not, they should at least not be required to make these changes unless a clear threat to the environment has been identified.

At the very least, there should be an opportunity to develop an alternative that could be approved by the Secretary.

Response: In considering a prior comment, the Program has assessed §6-1104(a)(4) and is proposing to strike requirement of 6-1104(a)(4) meaning that farms that are exempt from 10 V.S.A. § 6001 (3)(D)(vii)(VI) could apply for a small registration under the Accepted Composting Practices.

§6-1107(a)(5): Treatment of leachate. Acceptable leachate treatment options include the following:

(A) Collection and treatment at a permitted wastewater treatment facility;

(B) Collection and application to active composting piles in a manner approved by the Secretary;

(C) Treatment on site in a manner approved by the Secretary;

The application of leachate to compost being utilized for soil amendment on farms should not be authorized. The potential to accumulate persistent Pyrenes and other harmful substances is too great.

In determining an alternative approach to managing leachate, the burden of proof should fall on ANR. If no proof exists that a management strategy is harmful to the environment, the management technique shall be approved.

Response: The Program is open to researching this specific class of compounds as it relates to leachate application to active piles. Only one facility is currently permitted to recycle leachate to active piles and it is not on a farm. Keep in mind, the Solid Waste Management Rules are minimum standards and any operator can choose to not recirculate leachate if they are concerned.

§6-1108(a)(2): The facility shall be managed to properly compost materials, destroy pathogens, not create a threat to public health and safety or the environment, and not create objectionable odors, noise, vectors or other nuisance conditions.

For the benefit of the operator, regulator and neighbors, nuisance can not be determined subjectively. We need to develop some fair and reasonable parameters to determine when a nuisance exists. Act 250 articulates a sound methodology in assessing "Undue" and "Adverse".

As written, an objectionable noise could simply be the operation of well maintained machinery.

Amend to read: "The facility shall be managed to properly compost materials, destroy pathogens, not create a threat to public health and safety or the environment, and not create more than a reasonable amount of odors, noise, vectors or other nuisance conditions.".

Response. The Program agrees that "nuisance" is difficult to validate, but "undue" and "adverse" are equally difficult to field verify and the proposed change does not offer significant improvement. In fact, the proposed language may potentially represent a weakening in the standard because "undue" and "adverse" presume a baseline level of acceptable off-site impact before a nuisance is considered "undue" or "adverse." No change is proposed.

§6-1108(a)(6): A facility that uses animal mortalities, offal, or butchering waste as a compost feedstock shall comply with the requirements of ~~§6-1112~~ § 6-1108(d).

There is no evidence that the Solvita Compost Maturity Test is more effective than any of the other methods outlined in 6-1108(a)(8) - this provision should be struck.

Response: This is a typographical error which occurred when sections were shifted. This should cite to the Animal Mortality Composting Facility requirements located in §6-1108(c). Proposed change below.

§6-1108(a)(6): A facility that uses animal mortalities, offal, or butchering waste as a compost feedstock shall comply with the requirements of ~~§6-1112~~ § 6-1108(~~d~~c).

§6-1108(b)(2): Inspection of compost feedstocks. The compost feedstocks shall be inspected upon delivery to the facility non-compostable materials either manually or mechanically removed. All non-compostable materials shall be disposed of at a certified solid waste facility

Amend to read: "The compost feedstocks shall be inspected upon delivery to the facility and non-compostable materials either manually or mechanically removed in such a manner that non-compostables will not shatter or break into smaller pieces than their final screen size."
If operators are required to screen to remove contaminants, but are mechanically removing contaminants, breaking or shredding them in process to a size smaller than the screen will seperate, operators will end up with a bunch of contaminated product at the end.

Response: The Program agrees and is proposing the following rule revision.

§6-1108(b)(2): Inspection of compost feedstocks. The compost feedstocks shall be inspected upon delivery to the facility non-compostable materials either manually or mechanically removed. Mechanical processing shall not result in a final particle size of non-compostable materials that is smaller than the finished screen that will be used pursuant to §6-1108(b)(3). All non-compostable materials shall be disposed of at a certified solid waste facility.

§6-1108(b)(4)(C): Medium or large compost facilities may utilize another method that reduces pathogens to the extent

equivalent to the reduction achieved by the methods in subsections ~~(d)(1) or (2)~~ (d)(4)(A) or (d)(4)(B) of this section, ~~which is~~ when approved by the Secretary.

Where are (d)(4)(A) and (d)(4)(B)? Small facility leaf and yard waste composting?

(A) Pile Construction. Incoming leaf and yard residuals, and untreated wood must, within one week of delivery to the site, be formed into windrow piles no more than ten 12 feet high by 15 to 20 feet wide at the base, or other configuration that provides for the proper conditions under which aerobic composting will occur. Windrows must run with the slope of the land such that runoff is not trapped by the windrows. Leaf and yard residual compost facilities may use horse manure within the composting process.

(B) Grass clippings must be incorporated, and thoroughly mixed into established windrows at a ratio of no more than one-part grass to three parts leaf or wood residuals by volume within 24 hours of receipt at the facility. The composting facility must not accept grass clippings unless there is a sufficient volume of high carbon feed stocks feedstocks available to meet this ratio..

Response: This is a typographical error and should cite to the "Treatment of food residuals" requirements located in §6-1108(b)(4)(A) and §6-1108(b)(4)(B). See proposed rule revision below.

Medium or large compost facilities may utilize another method that reduces pathogens to the extent equivalent to the reduction achieved by the methods in subsections ~~(d)(1) or (2)~~ §6-1108(b)(4)(A) and §6-1108(b)(4)(B)of this section, ~~which is~~ when approved by the Secretary.

§6-1108(c)(5): Animal Mortality Monitoring and turning.

(B) The compost shall not be turned until at least the third month of composting.

(C) After three months treatment, if the requirements of ~~subsection (d)(3)~~ § 6-1107(f)(5)(A) ~~of this section~~ have been met, the permittee may visually examine the compost pile to determine whether the piles may be turned based upon whether the mortalities have degraded (with the exception of bones) and no odors are evident.

Rule B should be struck and "After three months treatment" should be struck from C. This requirement would not make good compost and after that much aging it will be much more difficult for operators to achieve the 15-day requirement. Additionally, as written, this would require an operator to be out recording temperatures every other day for well over 100 days. There is no evidence to support not turning a pile until the third month.

Furthermore, operators should be ensuring that farms generating mortalities are not using lead shot or poisons on their animals as that will negatively impact the compost and they should be bedding the animals in a bulking agent and lancing rumens prior to delivery. We should not have bloated, dead cows full of toxins being transported down the road..

Response: This is intended to be a pre-treatment phase to allow large particle sizes and whole body mortalities time to decompose to a point where they can be composted in a more homogenous mix. This methodology is comparable to neighboring states and has been effective in our experience. The Program is always open to any evidence the commenter can provide supporting turning prior to completion of a 3 month pre-treatment phase.

The temperature readings only need to be initiated once turnings begin - i.e. after the 3 month pre-

treatment window.

Historically, the Program has not stipulated what methods, equipment and/or drugs shall be used to dispatch animals prior to composting, and we do not intend to at this time.

Subchapter 12 – Organics Management Facilities

§6-1203(a): The Secretary may require an organics drop-off facility to obtain a transfer station certification pursuant to § 6-504 if the Secretary determines that such certification is necessary to ensure that the facility operations meet the operational requirements of § 6-1205 of this subchapter and will not present a hazard to public health and safety or the environment, or create a nuisance.

(i) Organics storage containers shall be located 50 feet from property lines;

(ii) Drop-off locations shall be approved by the local Solid Waste Management Entity as necessary for providing convenient access to organics management and in conformance with the applicable Solid Waste Implementation Plan

50' may be overly limiting. A well managed drop-off site shouldn't pose too big of a nuisance. I think it may depend more on the site and adding in some flexibility here might be prudent.

6-1203 Organics Management Facility Siting: **While introduced to deal with rural areas lacking transfer stations, it seems this would also apply to community-based efforts in more developed areas. To that end, is it possible to get a variance from the 50-foot setback requirement which may not work in an urban setting?**

Response: In general, regulations applicable to registrations are not designed to be flexible. Registrants are essentially capitalizing on a streamlined permit review process by agreeing to a small amount of prescriptive construction, operation and siting requirements. If a Registrant cannot comply with this requirement, they may operate under the mobile waste collection provisions or seek a transfer station certification and request a reduced (less than 50 feet) distance in accordance with §6-703(b)(3) for additional flexibility. No changes are proposed to this regulation.

§6-1204(b): Organics Drop-off facilities. In addition to the requirements of § 6-1204(a) of this section, these facilities shall provide storage capable of preventing leaking, providing protection from precipitation and to be secure when the drop-off is not open for drop-off activities

6-1204(b): Can you please further define the word secure? There was some confusion internally what the intent was of this language, whether it meant having something as serious as fencing around the facility or as minimal as a latching container in the event it tips over.

Response: Secure means preventing unauthorized access (human, wildlife, etc.).and does not necessarily include fencing.

§6-1206(a): Organics Drop-Off Facilities.

(1) Registration. No person shall operate an organics drop-off without receiving prior approval from the local solid waste management entity (i.e., district, alliance, or approved town) and registering with the Secretary on a registration form provided by the Secretary. The registration application shall contain the following:

or group

Response: The Program understands the definition of Solid Waste Management Entity in 6-201 to include solid waste groups (i.e. an alliance). No change proposed.

§6-1207(a)(2): Recordkeeping requirements. The following records shall be maintained by the owner and/or operator of the facility. Such records or copies thereof shall be maintained in a dry and secure location for at least three years, and shall be made available to the Secretary upon request.

It says here "the following requirements shall be maintained", but then no following requirements are listed…?

Response: Thank you for catching this error. The records being referred to in §6-1207(a)(2) are listed above in §6-1207(a)(1). The following revision is proposed.

§6-1207(a)(2): Recordkeeping requirements. Records required in §6-1207(a)(1) above shall be maintained by the owner and/or operator of the facility. Such records or copies thereof shall be maintained in a dry and secure location for at least three years, and shall be made available to the Secretary upon request.

Subchapter 13 – Residuals Management Facilities

§6-1303(h): Reporting

(1) The EQ biosolids or EQ biosolids product generator shall report to the Secretary on an annual basis, the following information for each calendar year. The annual report of the preceding calendar year's activity shall be submitted to the Secretary on or before February 19th of each year.

electronically?

Response. Yes electronically

Proposed SubChapter 16 – Hauler Requirements

Proposed Subchapter – Waste Haulers

To remain in compliance with Act 148, and the law, Casella is proposing a new subchapter for solid waste haulers. This subchapter will provide guidance on the existing laws in place for waste haulers and will add to the compilation of solid waste rules that the DEC has in place. Please see the following proposed subchapter.

Response. The Secretary appreciates the comment and the work put into developing the proposed language. This suggestion will be considered, though it may not be incorporated into this current round of rule revisions.

§6-1601 Purpose

It is the purpose of this Subchapter to ensure that waste haulers are practicing safe and environmentally sound transportation methods and delivering waste materials to an appropriate final destination and to prevent the accidental discharge of wastes into the environment.

Response. The Secretary appreciates the comment and the work put into developing the proposed language. This suggestion will be considered, though it may not be incorporated into this current round of rule revisions.

§6-1602 Applicability

A. All parties intending to haul solid waste materials to or from any location in Vermont for compensation are subject to the requirements of this Subchapter. This is applicable to commercial haulers which includes:
   1. Any person that transports regulated quantities of hazardous waste.
   2. Any person that transports solid and residual waste for compensation.

§6-1603 Waste Hauler Exemptions

In addition to the exemptions provided in Subchapter §6-302 and as specified under 10 V.S.A. §6607a(g)(3), waste haulers meeting the criteria below are exempt from offering collection of mandated recyclables, and commercial food residuals separated out from other solid waste with the following findings from the Secretary:

A. The area proposed for the exemption is within a municipality for which a SWIP has been approved by the Agency of Natural Resources.
B. That the approved SWIP:
   1. Clearly delineates the area where the collection services by haulers would not be required. Map(s) must be submitted indicating the towns or portions of towns within the delineated area that would not have collection services offered. If portions of towns are delineated, the map must clearly indicate which

streets are proposed for the exemption.

2. **Fully demonstrates that alternative services are offered and have the capacity to serve the needs and are convenient to all residents in the delineated area.**

§6-1604 New Permit Applications

A. In lieu of the applicable waste haulers as determined by §6-1602, all persons who transport solid waste materials originating or terminating at any location in Vermont are required to obtain a permit for transport activities.

B. Permit applications must be submitted on forms prescribed by the Secretary and must include the following:

1. **Company name and contact person**
2. **Identification of each vehicle to be used to transport solid waste materials**
3. **Types of solid waste materials to be transported**
4. **General origin and destination of solid waste materials**
5. **Disclosure statements as required by 10 V.S.A. Section 6650(f).**

C. Permit applications to transport hazardous waste must also provide information on the following, in addition to the requirements of §6-1604.

1. **A Supplemental Application on forms prescribed by the Secretary must be submitted with the application.**
2. **Certification of employee training for hazardous waste management**
3. **Insurance and financial responsibility documents**
4. **U.S. EPA identification number**

§6-1605 Permit Renewal Applications

A. Permits are issued for a period of 5 years and require annual renewal applications to be submitted to the Secretary on Current Year Vehicle Report Forms prescribed. Completed renewal application forms must be submitted 30 days prior to May 1st.

B. Annual Statements must be submitted with the annual renewal application, on forms prescribed by the Secretary.

C. An environmental regulatory fee is required for permit renewals:

1. **Solid Waste Hauler Permit renewals must submit $100 per tractor or trailer.**
2. **Solid Waste Hauler Permit renewals must submit $50 for each 2 axle vehicles, including pickups, stake-bodies and utility trailers.**
3. **Solid Waste Hauler Permit renewals must submit $75 for each 3 or 4 axle vehicles, including packers, dumps, roll-off and box trucks.**
4. **Hazardous Waste Hauler Permits renewals must submit $125 per truck, tractor or trailer.**

§6-1606 Permit Modifications

A. Applications for permit modifications must be submitted to the Secretary on the Vermont Waste Transportation Vehicle Report Form prescribed.

B. Applications for permit modifications must identify all proposed changes including changes in vehicle license plate numbers, additions or deletions of transport vehicles, changes in waste types, and identification of new or deleted receiving facilities.

C. If change of ownership occurs, the Permittee shall file a disclosure statement at least 90 days prior to the proposed change as required of an applicant under 10 V.S.A. § 6605f.

§6-1607 Permitting Requirements and Standards

The Secretary's decision to issue or deny a permit for the transport of solid waste materials shall be based on the following considerations:

1. **The status of any receiving facilities identified in the permit application. No permit shall be issued unless each of the receiving facilities is in one of the following categories.**

i. **A facility authorized to accept such waste.**
ii. **A facility operating under an active department issued order on consent.**
iii. **A facility not requiring any State or Federal certification, license, or permit to operate.**

2. **The compliance status of any receiving facility. A waste hauler permit may be denied, revoked, suspended or modified if the receiving facility has been determined to have violated any law, rule or regulation or permit condition related to the operation of its treatment, storage or disposal facility.**
3. **The compliance history and reliability of the applicant. A waste hauler permit may be denied, revoked, suspended or modified based upon the unsuitability of the applicant under the provisions of 10 V.S.A. §6605f.**

§6-1608 Operation Requirements

A. **The operator of any vehicle used for activities covered by this Subchapter shall carry the original permit or a legible photocopy of such permit in the vehicle. The operator shall present the permit, together with shipping or transporting documents relative to the solid waste materials being transported, to authorized representatives of the Secretary or to any law enforcement officers when requested to do so.**
B. **A permittee shall display the full name of the hauler on both sides of each vehicle and the hauler's permit number, in figures at least three inches high and of a color that contrasts with the background, in a prominent position on each side and the rear of each vehicle used for activities covered by this Subchapter.**
C. **The operator of any vehicle used for activities covered by this Subchapter shall remain with such vehicle while it is being filled or discharged.**
D. **A permittee shall submit a report to the Secretary annually, or more frequently if the Secretary deems necessary, on forms prescribed, as described by §6-1605. A permittee shall retain for three years the records on which such reports are based, and shall make such records available, upon request, to the department during normal business hours.**
E. **A permittee and the operator of any vehicle used for activities covered by this Subchapter shall comply with all applicable State and Federal laws and all rules and regulations promulgated thereunder. The permittee is responsible for all requirements for all vehicles, including leased vehicles operated under this permit.**
F. **A permittee shall conspicuously mark or placard every vehicle.**
G. **Permitted vehicles shall be restricted to the transportation of solid waste materials not intended for human or animal consumption or for other use by the general public except when properly cleaned in accordance with all applicable Federal and State regulations governing decontamination.**
H. **Permits are not transferrable. Any change of address, name or location of garaged vehicles must be submitted immediately to the Secretary.**
I. **The Permittee shall not place recyclable materials, separated by the customer, in the solid waste destined for disposal if recycling services have been arranged to be provided by the customer.**
J. **Waste collected shall be delivered to a certified solid waste management facility by the end of the next business day, or within 48 hours of collection, whichever is sooner.**
K. **No person shall transfer solid waste from a vehicle, trailer, or container used for the collection or storage of solid waste to another vehicle, trailer, or container at any place other than a certified solid waste facility unless as required by §6-302(A)(8).**
L. **Vehicles, trailers, or containers used to collect, or transport solid wastes must be fully capable of retaining and preventing the release of solid wastes and related liquids. All vehicles, trailers, or containers shall be covered when transporting solid waste. Vehicles, trailers, or containers shall only be transported uncovered when they are completely free of solid waste.**